



California Regulatory Notice Register

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PROPOSED ACTION ON REGULATIONS

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE <i>Fertilizing Materials Regulation—Notice File No. Z04-1214-10</i>	<i>Page</i> 1737
TITLE 10. DEPARTMENT OF CORPORATIONS <i>CDDTL: Books, Records and Annual Report—Notice File No. Z04-1214-02</i>	1738
TITLE 10. DEPARTMENT OF CORPORATIONS <i>Implementation of AB 2921 Provisions—Notice File No. Z04-1214-01</i>	1740
TITLE 13. DEPARTMENT OF MOTOR VEHICLES <i>Commercial Requester Account Surety Bond Requirements—Notice File No. Z04-1214-03</i>	1741
TITLE 13. DEPARTMENT OF MOTOR VEHICLES <i>Window Decal for Vehicles with Wheelchair Lift or Wheelchair Carrier—Notice File No. 04-1213-01</i>	1743
TITLE 16. BOARD OF OPTOMETRY <i>Citations—Notice File No. Z04-1214-06</i>	1746
TITLE 16. BOARD OF OPTOMETRY <i>Corrective Lens Prescription Release and Consumer Contact Information—Notice File No. Z04-1214-05</i>	1744
TITLE 16. MEDICAL BOARD OF CALIFORNIA <i>Citable Offenses—Notice File No. Z04-1214-09</i>	1748
TITLE 16. MEDICAL BOARD OF CALIFORNIA <i>Licensed Midwives—Standards of Care—Notice File No. Z04-1214-08</i>	1749
TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT <i>Taxable Value of Meals and Lodging—Notice File No. Z04-1214-04</i>	1751

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME <i>PALCO Release of “D” Stands for Harvest</i>	1753
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(Continued on next page)

*Time-
Dated
Material*

DEPARTMENT OF HEALTH SERVICES

Nurse to Patient Ratios in General Acute Care Hospitals..... 1753

FISH AND GAME COMMISSION

California Tiger Salamander 1754

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State..... 1758

Sections Filed, July 28, 2004 to December 15, 2004..... 1762

2004 RULEMAKING CALENDAR

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Section 2311(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Fertilizing Materials.

A public hearing concerning the proposed action will be held on February 8, 2005 at 9:30 a.m., at California Department of Food and Agriculture, 1220 N Street, Room A-477, Sacramento, CA 95814.

A representative of the Department of Food and Agriculture will preside at the hearing. Any interested person may appear and be heard. Persons who wish to speak are requested to register prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 9:00 a.m. to 9:30 a.m. Those registered persons will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard.

If the number of preregistered persons and other participants in attendance at the hearing warrants it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Any interested person who does not wish to speak at the hearing may present written statements to the presiding officer at the hearing, or may submit written statements on or before February 7, 2005, to the agency officer named below.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber; to provide assurance to the consumer of commercial fertilizers that the product purchased is properly identified, and to provide assurance of the validity of the quality and quantity represented by the manufacturer; and to enforce such regulations relating to the manufacture, guaranteeing, labeling, and distribution of fertilizing materials as deemed necessary to circumscribe and prevent mis-

branded and adulterated fertilizing materials to protect California's agricultural industry and the consumer (Food and Agricultural Code, Section 14502, 14681, and 14682).

Section 2311 defines slow released plant nutrients. The proposed amendment of Section 2311 revises subsection (b) by adding item number "(6)" to recognize elemental sulfur products as a type of slow released plant nutrient for application to soil. Any other application method needs to be substantiated by scientific research to demonstrate availability of an efficacious amount of elemental sulfur as a source of nutrient sulfur. The proposed amendment will be effective January 1, 2006.

There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 2311 does not impose a mandate on local agencies or school districts.

FISCAL IMPACTS

No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, no costs or savings to any state agencies, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Secretary of the Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 2311 pursuant to the authority vested by Sections 407 and 14502, and 14631 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes to amend Section 2311 to implement, interpret, and make specific Section 14631 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESSES

The amendment of these regulations may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and requests for a public hearing may be directed is: Maryam Khosravifard, California Department of Food and Agriculture, Agricultural Commodities and Regulatory Services Branch, 1220 N Street, Sacramento, California 95814, phone (916) 445-0444. Written comments may be sent via fax to (916) 445-2107 or e-mail to mkhosrav@cdfa.ca.gov. The back-up contact person is Kent Kitade. He may be reached at the same number or e-mailed at kkitade@cdfa.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all of the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form is available upon request. The location of the information on which the proposal is based may also be obtained upon request.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulation prior to the date of adoption by contacting the agency officer named herein.

FINAL STATEMENT OF REASONS AND INTERNET ACCESS

The final statement of reasons when available can be obtained from the agency contact person or Internet at <http://www.cdfa.ca.gov/newsinfo/regulations.html>. Documents pertaining to this rulemaking action may be accessed at

<http://www.cdfa.ca.gov/newsinfo/regulations.html>.

TITLE 10. DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner proposes to amend Title 10, Subchapter 13 of Chapter 3 of the California Code of Regulations under the CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW by adopting Sections 2025, 2026, 2027, 2028 and 2029 in Article 2 for the books and records retention and adopting Section 2040 in Article 3 with the format and instructions for the annual report required of licensees under this law.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8, subdivision (a), of the Government Code. The request for hearing must be received by the Department of Corporations' contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Corporations, addressed to Kathy Womack, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m. on February 7, 2005. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax (916) 322-3205. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Legislature enacted Senate Bill 898 (Chapter 777, Statutes 2002), which is known as the California Deferred Deposit Transaction Law (CDDTL). The CDDTL sets forth the regulatory provisions governing the business of deferred deposit transactions and transfers the corresponding responsibilities from the Department of Justice to the Department of Corporations. The CDDTL became

effective on January 1, 2003 and will become operative on December 31, 2004. The California Corporations Commissioner (Commissioner) has the power and authority to implement provisions of the CDDTL prior to the operative date. (Financial Code Section 23104.)

The proposed rules set forth the specific books and records each licensee is to maintain under the CDDTL pursuant to Financial Code Section 23024, with an option for the records to be maintained in electronic format. The proposed rules also set forth the records to be maintained when a deferred deposit transaction is sold, transferred or assigned. The books and records are to be maintained in accordance with generally accepted accounting principles and commercially reasonable practices for each business location. Finally, a form and instructions are set forth in the annual report required under Financial Code Section 23026.

In order to comply with the Administrative Procedure Act (APA) (Government Code Section 11370, et seq.), the Department proposes to adopt Sections 2025, 2026, 2027, 2028 and 2029 to Title 10, Chapter 3, Subchapter 13, Article 2 of the California Code of Regulations for the books and records requirements. Additionally, the Department proposes to add Section 2040 to Title 10, Chapter 3, Subchapter 13, Article 3 of the California Code of Regulations to this title and chapter for the annual report requirements.

AUTHORITY

Sections 23015, 23024, 23026, 23046 and 23104, Financial Code.

REFERENCE

Sections 23024, 23026 and 23046, Financial Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulation for 15 days after the date on which it is made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 23/04 B. An

initial statement of reasons for the proposed action, containing all the information upon which the proposal is based, is available from the contact person designated below. Request Document PRO 23/04 C. These documents are also available at the Department's website www.corp.ca.gov. As required by the APA, the Office of Law and Legislation maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or savings to any state agency: None.
- Direct or indirect costs or savings in federal funding to the state: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect: (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; (3) the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department of Corporations is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed rules implement the provisions set forth by Financial Code Sections 23024, 23026 and 23046 for books and records retention and the format of the annual report required of CDDTL licensees.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations will not affect small businesses. Deferred deposit transactions are excluded from the definition of small business in Government Code Section 11342.610, subdivision (b)(1). In addition, the proposed rules set forth specific requirements as dictated by existing statutes.

CONTACT PERSON

Inquiries concerning this action, such as requests for copies of the text of the proposed regulations, may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Department of Corporations, 1515 K Street, Suite 200, Sacramento, California, 95814. Inquiries regarding the substance of the proposed regulation may be directed to Tiffany Vargas, Corporations Counsel, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814, (916) 322-3675.

TITLE 10. DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner ("Commissioner") proposes to amend and adopt regulations under the Franchise Investment Law ("FIL") relating to negotiated franchises, exemptions to registration, and electronic disclosure documents. The Commissioner proposes to adopt Sections 310.100.4 and 310.114.4 and to amend Section 310.101 of Subchapter 2.6 of Chapter 3 of Title 10 of the California Code of Regulations. (10 C.C.R. Sections 310.100.4, 310.101, and 310.114.4.)

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8, subdivision (a), of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed to Kathy Womack, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m. on February 7, 2005. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax (916) 322-3205. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5:00 p.m. on the next business day.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department regulates the offer and sale of franchises pursuant to the FIL. Under the FIL, it is unlawful to offer or sell a franchise unless the franchise is registered by the Department, or is exempt from the Department's review.

On September 10, 2004, Governor Arnold Schwarzenegger signed AB 2921 (Chap. 458, Stats, 2004), which made several important changes to the FIL. The Department proposes changes to the Commissioner's rules in accordance with AB 2921 as follows: (1) Section 310.100.4 will specify the content of the disclosure provided to the franchisee that is to be used for certain offers and sales of franchises on terms different from the terms of the registered offer, as specified in Corporations Code Section 31109.1; (2) Section 310.101 will modify the existing exemption form to allow for an exemption for the offer or sale of a franchise to certain accredited and suitable purchasers, as set forth in Corporations Code section 31109; and (3) Section 310.114.4 will specify the requirements to be used when a franchisor delivers a franchise disclosure document by electronic means, as set forth in Section 31119, as amended.

AUTHORITY

Section 31502, Corporations Code.

REFERENCE

Sections 31101, 31104, 31108, 31109, 31109.1, 31114, 31119, 31500, Corporations Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulations should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which they are made

available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 24/04-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 24/04-C. These documents are also available at the Department's website www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Law and Legislation maintains the rulemaking file. The rule-making file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or Savings to any State Agency: None.
- Direct or Indirect costs or savings in federal funding to the state: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; or (3) the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations will not affect small business. This regulatory action merely streamlines the registration process, by providing exemptions from registration and allowing for delivery of disclosure documents by electronic means.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Kimberly Willy, Corporations Counsel, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814, (916) 322-3553.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Section 350.24, in Chapter 1, Division 1, Article 5, of Title 13, California Code of Regulations, concerning the surety bond for a Commercial Requester Account with access to address information.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting

a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on *February 7, 2005*, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code sections 1651 and 1810, in order to implement, interpret or make specific Vehicle Code section 1810.2.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 1810.2 allows the department to establish commercial requester accounts for the purpose of requesting and receiving driver license, identification card and vehicle registration information from the department. Commercial requesters that have a legitimate business need to obtain residence address information from the department's records must file a bond in the amount of fifty thousand dollars (\$50,000).

The department has reviewed all of its surety bonds and has developed standard language for the bond forms and regulations associated with each bond based on the authorizing statute(s). The surety bond required for a commercial requester account with access to address information has been amended and submitted to the Attorney General for approval. Section 350.24, which identifies the bond requirements for commercial requester accounts, is proposed to be amended for consistency with the modified language of the bond and to reflect the requirements of the authorizing and governing statutes.

DOCUMENTS INCORPORATED BY REFERENCE

The Commercial Requester Account Bond form INF 1132 (REV. 7/2004) is incorporated by reference in Title 13, Section 350.24, California Code of Regulations. The form is not published in Title 13 because it would be impractical and cumbersome to publish the form in the department's regulations. The form will be published in the California Code of Regulations, Title 11, after it has been approved by the Office of the Attorney General.

FISCAL IMPACT STATEMENT

Cost Or Savings To Any State Agency: None.

Other Non-Discretionary Cost or Savings to Local Agencies: None.

Costs or Savings in Federal Funding to the State: None.

Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This regulation is proposed to amend the current regulations. The proposed regulations would identify the required surety bond form and clarify the conditions of the bond.

Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will neither create nor eliminate jobs or create businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses because the proposed regulatory action identifies the surety bond form and clarifies the bond conditions under the California Code of Civil Procedure and the Vehicle Code.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention

of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-5567, or cpatrick@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or e-mail dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Section 159.10 in Chapter 1, Division 1, Article 3 of Title 13, California Code of Regulations, Window Decal for Vehicles with a Wheelchair Lift or Wheelchair Carrier.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., February 7, 2005, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by section 1651 and 5201 of the Vehicle Code in order to implement, interpret or make specific sections 1652 and 5201 of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Vehicle Code Section 5201 requires that license plates be clearly visible to law enforcement on a vehicle being driven on California's roads and highways. Assembly Bill 1303 (Ch. 626, 2003) amended Section 5201 to mandate the Department of Motor Vehicles to issue a decal for the purpose of identifying rear license plates that are being obstructed on vehicles equipped with a wheelchair lift or wheelchair carrier.

This proposed regulation will specify that a registered owner issued a valid disabled plate or placard or disabled veteran plate will be eligible to apply for the decal at no charge if the vehicle's license plate is being obstructed by a wheelchair lift or wheelchair carrier.

FISCAL IMPACT STATEMENT

Cost or Savings To Any State Agency: None.

Other Non-Discretionary Cost or Savings to Local Agencies: None.

Costs or Savings in Federal Funding to the State: None.

Cost Impact on Representative Private Persons or Businesses: The decal will be issued at no charge. The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The decal will be issued to a disabled individual or disabled veteran with a wheelchair lift or wheelchair carrier at no charge.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. The decal will be issued to a disabled individual or disabled veteran with a wheelchair lift or wheelchair carrier at no charge.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954, or bdewatney@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 16. BOARD OF OPTOMETRY

NOTICE IS HEREBY GIVEN that the Board of Optometry is proposing to take the action described in the Informative Digest. Any person interested may

present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 400 R Street, Suite 4090, Sacramento, California, at 10:30 AM, February 7, 2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Optometry at its office not later than 5:00 p.m. on February 7, 2005, or must be received by the Board of Optometry at the hearing. The Board of Optometry, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 125.9, 148, 3025, 3135, and 3090 of the Business and Professions Code, and to implement, interpret or make specific section 3135 of said Code, the Board of Optometry is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows: Amendment to section 1579, Citable Offenses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1. CCR Section 1579 establishes cite and fine authority for violation of laws and regulations specifically identified in that Section. In its current form CCR 1579 must be amended each time there is an applicable law or regulation change. In cases where there is a violation of a law or regulation that is not listed in CCR 1579, the Board does not have authority issue a citation and/or fine. This amendment will eliminate the specificity of the existing language and create categories of violations thus eliminating the need for ongoing amendments in response to future changes in optometry law.

Effective January 1, 2004, B&P Section 125.9 was amended to increase the maximum amount a fine can be assessed from \$2,500 to \$5,000 for all Department of Consumer Affairs boards, bureaus, and programs. Section 125.9 also establishes a \$5,000 maximum for fraudulent billing of Medi-Cal, Medi-Care and insurance companies. This amendment will implement the new cap on fines.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None. The proposed amendments pertain to assessing appropriate fines for violation of the Optometry Practice Act.

Impact on Jobs/New Businesses: The Board of Optometry has determined that this regulatory proposal will not have any significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board of Optometry is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board of Optometry has determined that the proposed regulations would affect very few small businesses, because there are very few fines assessed. In the past fiscal year, less than 5% of licensees were assessed fines.

CONSIDERATION OF ALTERNATIVES

The Board of Optometry must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Optometry has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Optometry at 400 R Street, Suite 4090, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Rex Farmer
Address: 400 R Street, Suite 4090
Sacramento, CA 95814
Telephone No.: (916) 322-0961
Fax No.: (916) 445-8711
E-Mail Address: rex_farmer@dca.ca.gov

The backup contact person is:

Name: Jane Flint
Address: 400 R Street, Suite 4090
Sacramento, CA 95814
Telephone No.: (916) 323-8720
Fax No.: (916) 445-8711
E-Mail Address: jane_flint@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.optometry.ca.gov.

TITLE 16. BOARD OF OPTOMETRY

NOTICE IS HEREBY GIVEN that the Board of Optometry is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 400 R Street, Suite 4090, Sacramento, California, at 10:30 AM, February 7, 2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Optometry at its office not later than 5:00 p.m. on February 7, 2005, or must be received by the Board of Optometry at the hearing. The Board of Optometry, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 3025, 3025.5, and 3090 of the Business and Professions Code, and to implement, interpret or make specific sections 3025, 3025.5 and 3090 of said Code, and 16 Code of Federal Regulations 315.3, the Board of Optometry is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows: Amendment to sections 1566 and 1566.1, Consumer Notice RE: Prescription Release.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1. "Business and Professions Code Sections 3025 and 3025.5 authorize the Board of Optometry to promulgate regulations to ensure the health and safety of consumers seeking optometric services."
2. House of Representatives Bill (HR) 3140 (16 Code of Federal Regulations 315.3), also known as the "Fairness to Contact Lens Consumer Act," became fully effective on August 2, 2004. The Act requires eye care practitioners to provide patients with a copy of their contact lens prescriptions as soon as the lenses have been properly fitted. The proposed language will update an existing consumer notice to reflect the new contact lens prescription release requirement.
3. Section 1566: This section requires a consumer notice be posted in a conspicuous place at each

office which clearly states the legal requirements and office policy regarding release of eyeglass and contact lens prescriptions.

4. Section 1566.1: This section requires the consumer notice include information regarding how to contact the Board. The address currently listed in Section 1566.1 is incorrect and outdated. This proposal will update Board contact information to reflect the current office location, website and email address.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: These proposed regulation amendments only pertain to the providing updated consumer rights and Board contact information on an existing notice.

Impact on Jobs/New Businesses: The Board of Optometry has determined that this regulatory proposal will not have any significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board of Optometry is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board of Optometry has determined that the proposed regulations could impact small businesses. Optometrists in private practice may experience a reduction in contact lens sales. Patients who weren't previously aware that they could purchase contact lenses from any vendor might elect to purchase lenses from a source other than their prescribing optometrists.

CONSIDERATION OF ALTERNATIVES

The Board of Optometry must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Optometry has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Optometry at 400 R Street, Suite 4090, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection, by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Rex Farmer
Address: 400 R Street, Suite 4090
Sacramento, CA 95814
Telephone No.: (916) 322-0961
Fax No.: (916) 445-8711
E-Mail Address: rex_farmer@dca.ca.gov

The backup contact person is:

Name: Jane Flint
Address: 400 R Street, Suite 4090
Sacramento, CA 95814

Telephone No.: (916) 323-8720
Fax No.: (916) 445-8711
E-Mail Address: jane_flint@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.optometry.ca.gov.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Embassy Suites, LAX-South, 1440 East Imperial Avenue, El Segundo, California, 90245, at 8:00 A. M., on February 18, 2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office not later than 5:00 p.m. on February 14, 2005 or must be received by the board at the hearing. The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 125.9, 148, and 2018, Business and Professions Code and Section 11400.20, Government Code, and to implement, interpret or make specific Sections 2227, 2228, 2229, and 2234 of the Business and Professions Code, and Sections 11400.20 and 11425.50(e) of the Government Code, the board is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend section 1364.11.

Business and Professions Code Sections 125.9 and 148 allow the Board to establish by regulation a system for the issuance of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

Existing regulation authorizes the board to issue a citation under Section 1364.10 for a violation of specified sections, and sets the fine for a violation from \$100 to \$2,500. This proposal would add to the list of citable offenses, would permit a licensee to be cited for minor violations of probation, and would set the parameters for assessing a fine up to \$5,000.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses: The board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses because the regulations are applicable only to physicians and surgeons.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS
AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person or by accessing the website listed below.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS
AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries concerning the substance of the proposed regulations may be directed to:

Name: Ana Facio
Address: Medical Board of California
1430 Howe Avenue, Suite 84
Sacramento, CA 95825
Telephone No.: (916) 263-2532
Fax No.: (916) 263-2530
E-Mail Address: afacio@medbd.ca.gov

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kevin A. Schunke
Address: Medical Board of California
1430 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2368
Fax No.: (916) 263-2387
E-Mail Address: kschunke@medbd.ca.gov

The backup contact person is:

Name: Linda Whitney
Address: Medical Board of California
1430 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2389
Fax No.: (916) 263-2387
E-Mail Address: lwhitney@medbd.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.caldocinfo.ca.gov.

**TITLE 16. MEDICAL BOARD
OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Medical Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Embassy Suites, LAX South, 1440 East Imperial Avenue, El Segundo, California, at 9:00 a.m. on February 18, 2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Persons in this Notice, must be received by the Board at its office no later than 5:00 p.m. on February 7, 2005 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the persons designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific Section 2507 of said Code, the Medical Board of California is considering adding to Division 13, Chapter 4, Article 3.5 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Adopt section 1379.20

Existing regulations do not define the appropriate standard of care required for the practice of midwifery. Business and Professions Code Section 2507(f) requires the division to adopt regulations to define the appropriate standard of care and level of supervision for licensed midwives. This regulation would implement the portion of that mandate regarding standard of care.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies:
None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of business in the State of California

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses. The proposed regulation will not affect an individual's eligibility to obtain licensure as a licensed midwife, but will simply codify the existing standards of care.

CONSIDERATION OF ALTERNATIVES

The Medical Board of California must determine that no reasonable alternative to the regulation would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Medical Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the

hearing upon request from the person designated in this Notice under Contact Person or by accessing the web site listed below.

**AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS
AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site listed below.

CONTACT PERSON

Inquiries or comments concerning the substance of the proposed regulation may be addressed to:

Name: Susan Lancara
Address: Medical Board of California
1426 Howe Avenue, Suite 54
Sacramento, CA 95825
Telephone No.: (916) 263-2393
Fax No.: (916) 263-2567
SLancara@medbd.ca.gov

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kevin Schunke
Address: Medical Board of California
1430 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2368
Fax No.: (916) 263-2387
E-Mail Address: KSchunke@medbd.ca.gov

The backup contact person is:

Name: Linda Whitney
Address: Medical Board of California
1430 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2389
Fax No.: (916) 263-2387
E-Mail Address: LWhitney@medbd.ca.gov

WEB SITE ACCESS

Materials regarding this proposal can be found at www.caldocinfo.ca.gov.

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

Amendment of Title 22, California Code of Regulations, Sections 926-3, 926-4, and 926-5

TAXABLE VALUE OF MEALS AND LODGING

NOTICE OF PROPOSED RULEMAKING

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), title 22, sections 926-3, 926-4, and 926-5, by increasing the taxable value of meals and lodging furnished to employees by employers during calendar year 2005. These increases are due to inflation.

The Department will adopt these amendments after considering all comments, objections, or recommendations regarding the proposed action.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CCR, title 22, sections 926-3, 926-4, and 926-5, provide the taxable value of meals and lodging furnished to employees by employers. In order to establish the equivalent amount of cash wages paid by employers who pay a portion of their employee's wages in the form of meals or lodging, it is necessary to compute the reasonable cash value of such meals and lodging for unemployment insurance purposes. The Department makes this computation each calendar year to reflect the upward or downward trend in the cost of living during the previous calendar year. This yearly computation ensures an accurate and up-to-date calculation of the taxable values of meals and lodging for purposes of "wages" within the meaning of Unemployment Insurance Code (UIC) section 926.

According to the United States Department of Labor, Bureau of Labor Statistics [<http://data.bls.gov/cgi-bin/srgate>], the average retail food price index for fiscal year 2003–2004 was 193.6, up 450 percent from the average of 35.2 for the base year 1968–69. The average residential rent index for the fiscal year ended June 30, 2004, was 230.2. This is 417.3 percent above the average residential rent index of 44.5 for the base year ended June 30, 1973. The Department uses 1968-69 as the base year for food and 1973 as the base year for rent because these are the years used by the Bureau of Labor Statistics.

These regulations are being amended to reflect, in substantially the same ratio, the increases in the retail food price index and residential rent index which occurred during the fiscal year ended June 30, 2004.

Notwithstanding sections 926-3(a)(2), and 926-4(a)(2), and 926-5(a)(2)(A) of CCR, title 22,

which state in part: "For the calendar year 2005 and thereafter, except as modified herein . . . ", the Department recognizes that the amendments made to these sections will not become effective until the regulations are approved by the Office of Administrative Law.

Section 926-3.

This regulatory action will amend section 926-3, relating to the taxable value of board and lodging. In 2005 and thereafter until modified, the taxable value of three meals per day is raised from \$8.55 to \$9.00. The taxable value of breakfast is raised from \$1.85 to \$1.95. The taxable value of lunch is raised from \$2.60 to \$2.75. The taxable value of dinner is raised from \$4.10 to \$4.30. The taxable value of an unidentified meal is raised from \$3.00 to \$3.10. The taxable value of lodging is raised from \$921.00 to \$957.00 monthly maximum, and from \$29.85 to \$31.05 weekly minimum.

Section 926-4.

This regulatory action will amend section 926-4, relating to the taxable value of meals and quarters furnished to officers and crewmen aboard vessels. In 2005 and thereafter until modified, the taxable value of daily meals is increased from \$8.55 to \$9.00. The taxable value of quarters is increased from \$4.25 to \$4.40 daily for unlicensed personnel. The taxable value of quarters is increased from \$6.20 to \$6.45 daily for licensed personnel.

Section 926-5.

This regulatory action will amend section 926-5, relating to the taxable value of meals and quarters received by fishermen aboard fishing vessels. In 2005 and thereafter until modified, the taxable value of quarters is increased from \$29.85 to \$31.05 a week, or from \$4.25 to \$4.40 a day for periods of less than a week under specified conditions.

AUTHORITY AND REFERENCE

Authority: Sections 305 and 306, Unemployment Insurance Code.

Reference: Section 926, Unemployment Insurance Code.

FISCAL IMPACT

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: Approximately 314,051 businesses and small businesses will be affected statewide by these regulations. The types of businesses affected include fisheries,

restaurants and eating establishments, apartment complexes, private households, residential care facilities, and home health care. The total statewide cost to businesses and small businesses is anticipated to be \$14.5 million, however, the cost to individual businesses is minimal. The regulation does not impose any new reporting requirements on businesses.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The costs impact on representative persons or businesses: These proposed amendments will affect only those employees who are furnished meals or lodging by their employers. The Department anticipates that the fiscal impact to employees will be negligible.

Anticipated impact on housing costs: These proposed amendments will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

SMALL BUSINESS IMPACT

These proposed amendments will not have a significant impact on small businesses since the changes reflect small inflationary increases in the taxable value of meals and lodging for purposes of wages within the meaning of section 926 of the UIC. Essentially, the proposed amendments will only accelerate the point at which an employee reaches the maximum taxable wage limit for the calendar year.

LOCAL MANDATE DETERMINATION

The Department has determined that these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

CONSIDERATION OF ALTERNATIVES

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or

would be as effective and less burdensome to affected private persons than the proposed regulatory amendments.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than February 7, 2005, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

CONTACT PERSONS

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development
Department
P. O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
Employment Development
Department
800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712

Fax No.: (916) 654-9069

E-Mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst

Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Barbara Kaufman, Staff Counsel

Telephone No.: (916) 654-8410

INTERNET WEBSITE ACCESS

The Department has posted on its Internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

PUBLIC HEARING

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on February 7, 2005.** A request for hearing can be made by contacting the persons noted above.

MODIFICATION OF PROPOSED ACTION

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

FINAL STATEMENT OF REASONS

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

FURTHER INFORMATION

The Department has prepared and has available for review, upon request, the text of the proposed regulatory amendments discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the amendments; and the information upon which the Department relied in proposing the amendments. (If you received this notice by mail, a copy of the text of the proposed amendments and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed amendments are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CESA CONSISTENCY DETERMINATION FOR PALCO Timber Harvest Humboldt County

On December 7, 2004, the Pacific Lumber Company ("PALCO") notified the Department of Fish and Game ("Department") that PALCO proposes to rely on authorization granted by the U.S. Fish and Wildlife Service ("USFWS") in Incidental Take Permit number TE828950-0 to carry out a project that could adversely affect species protected under both the federal Endangered Species Act and California Endangered Species Act ("CESA"). The project is the harvest of certain timber stands in approved Timber Harvesting Plans (THPs) that contain "high quality" marbled murrelet (*Brachyramphus marmoratus*) habitat ("D" type stands). This request applies to approximately 11.2 acres of "D" type stands distributed within 3 THPs.

Pursuant to Fish and Game Code section 2080.1, PALCO is requesting that the Department determine that the Federal Incidental Take Permit is consistent with CESA for the above described harvest. If the Department determines that the Federal Incidental Take Permit is consistent, PALCO will not be required to obtain a separate incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF HEALTH SERVICES

NOTICE OF CHANGE OF LOCATION FOR THE JANUARY 18, 2005 PUBLIC HEARING

DEPARTMENT OF HEALTH SERVICES EMERGENCY REGULATION

NURSE TO PATIENT RATIOS IN GENERAL ACUTE CARE HOSPITALS (R-01-04E)

Notice is hereby given that the State Department of Health Services has changed the location of the public hearing regarding the Nurse to Patient Ratios in General Acute Care Hospitals (R-01-04E) emergency regulation.

The hearing will commence at 10 a.m. on January 18, 2005, at the Sacramento Convention Center, Exhibit Hall D, 1400 J Street, Sacramento, California.

All other information contained in the notice of emergency rulemaking for R-01-04E, which was previously published on December 3, 2004 in

California Regulatory Notice Register 2004 #49-Z, remains unchanged. The regulation text, notice of emergency rulemaking, and other materials regarding the emergency regulation that are available via the Internet may be found at <http://www.applications.dhs.ca.gov/regulations/>, then click on the "Select DHS regulations button," and select R-01-04E from the pull-down menu.

Inquiries concerning the action described in this notice may be directed to Barbara Gallaway, R.N., M.S.N., at (916) 440-7695.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Fish and Game Code Section 2074.2, the California Fish and Game Commission, at its October 22, 2004, meeting in Concord, rejected the petition (Petition 2004) filed by the Center for Biological Diversity to list the California tiger salamander (*Amytostoma californiense*) as an endangered species based on a finding that the petition did not provide sufficient information to indicate that the petition action may be warranted. At this meeting, the Commission also announced its intention to ratify its finding at its December 2, 2004, meeting in Monterey.

NOTICE IS ALSO GIVEN that, at its December 2, 2004, formal meeting in Monterey, the Commission adopted the following formal findings outlining the reasons for the rejection of the petition.

BACKGROUND

On July 5, 2001, the Center for Biological Diversity, et al. submitted a petition (Petition 2001) to list the California tiger salamander (CTS) as an endangered species and requested that the Commission take emergency action pursuant to Section 2076.5 of the Fish and Game Code to list the CTS as an endangered species for an emergency listing. The Commission, at its August 3, 2001, meeting in Sacramento, considered and denied this request. The Commission's findings were:

1. There was insufficient information to indicate that there was any emergency posing a significant threat to the continued existence of the species;
2. There was insufficient evidence to suggest that an emergency regulation was necessary for the immediate conservation, preservation or protection of the CTS; and
3. The Commission directed the Department to thoroughly review the petition to list the CTS as an endangered species as required in sections 2072.3 and 2073.5 of the Fish and Game

Code, and to report to the Commission if at any time during the review process it believes that emergency action is warranted.

The Department completed its evaluation and the Commission, at its December 7, 2001, meeting in Long Beach, considered the petition, the Department's initial review and recommendation, and public comments. At that meeting the Commission rejected the petition and made a finding that the "petition contained insufficient information that the petitioned action may be warranted." The Commission ratified those findings at its February 8, 2002, meeting in Sacramento.

On January 30, 2004, the Center for Biological Diversity, et al., submitted a revised petition (Petition 2004) to list the CTS as an endangered species. Pursuant to Section 2073.5 of the Fish and Game Code, the petition was forwarded to the Department of Fish and Game for its review.

STATUTORY REQUIREMENTS

A species is endangered under California Endangered Species Act, Fish and Game Code Section 2050 et seq. (CESA), if it "is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease." (Fish & G. Code, § 2062.) A species is threatened under CESA if it is "not presently threatened with extinction [but] is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [CESA]" (Fish & G. Code, § 2067.) The responsibility for deciding whether a species should be listed as endangered or threatened rests with the Fish and Game Commission (Commission). (Fish & G. Code, § 2070.)

California law does not define what constitutes a "serious danger" to a species, nor does it describe what constitutes a "significant portion" of a species' range. The Commission makes the determination as to whether a species currently faces a serious danger of extinction throughout a significant portion of its range, (or for a listing as threatened whether such a future threat is likely) on a case-by-case basis after evaluating and weighing all the biological and management information before it. This approach is consistent with the process followed by federal agencies in deciding whether to list species under the Federal Endangered Species Act, 16 U.S.C. § 1531 et seq.

Non-emergency listings involve a two-step process: first, the Commission "accepts" a petition to list the species, which immediately triggers regulatory protections for the species as a candidate for listing and also triggers a year-long study by the Department of Fish and Game (Department) of the species' status (Fish &

G. Code, §§ 2074.2, 2074.6, and 2084); second, the Commission considers the Department's status report and information provided by other parties and makes a final decision to formally list the species as endangered or threatened (Fish & G. Code, § 2075.5).

To be accepted by the Commission, a petition to list a species under CESA must include sufficient scientific information that the listing may be warranted. (Fish & G. Code, § 2072.3, Cal. Code Regs., tit. 14, § 670.1, subds. (d) and (e).) The petition must also include information regarding the species' population trend, range, distribution, abundance and life history; factors affecting the species' ability to survive and reproduce; the degree and immediacy of the threat to the species; the impact of existing management efforts; suggestions for future management of the species; the availability and sources of information about the species; information about the kind of habitat necessary for survival of the species; and a detailed distribution map. (Fish & G. Code, § 2072.3, Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).) In deciding whether it has sufficient information to indicate the petitioned listing may be warranted, the Commission is required to consider the petition itself, the Department of Fish and Game's written evaluation report, and other comments received about the petitioned action. (Fish & G. Code, § 2074.2.)

The requisite standard of proof to be used by the Commission in deciding whether listing may be warranted (i.e. whether to accept or reject a petition) was described in *Natural Resources Defense Council v. Fish and Game Commission* (1994) 28 Cal.App.4th 1104. In the *NRDC* case, the court determined that "the section 2074.2 phrase 'petition provides sufficient information to indicate that the petitioned action may be warranted' means that amount of information, when considered in light of the Department's written report and the comments received, that would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur" (*NRDC*, supra, 28 Cal. App. 4th at page 1125.) This "substantial possibility" standard is more demanding than the low "reasonable possibility" or "fair argument" standard found in the California Environmental Quality Act, but is lower than the legal standard for a preliminary injunction, which would require the Commission to determine that a listing is "more likely than not" to occur. (*Ibid.*)

The *NRDC* court noted that this "substantial possibility" standard involves an exercise of the Commission's discretion and a weighing of evidence for and against listing, in contrast to the fair argument standard that examines evidence on only one side of

the issue. (*NRDC*, supra, 28 Cal. App. 4th at page 1125.) As the Court concluded, the decision-making process involves:

. . . a taking of evidence for and against listing in a public quasi-adjudicatory setting, a weighing of that evidence, and a Commission discretion to determine essentially a question of fact based on that evidence. This process, in other words, contemplates a meaningful opportunity to present evidence contrary to the petition and a meaningful consideration of that evidence." (*Id.* at 1126.)

Therefore, in determining whether listing "may be warranted," the Commission must consider not only the petition and the report prepared on the petition by the Department, but other evidence introduced in the proceedings. The Commission must decide this question in light of the entire record.

REASON FOR FINDING

This statement of reasons for the finding sets forth an explanation of the basis for the Commission's finding and its rejection of the petition to list the CTS as an endangered species. It is not a comprehensive review of all information considered by the Commission and for the most part does not address evidence that, while relevant to the proposed listing, was not at issue in the Commission's decision.

In order to accept this petition, the Commission is required to determine that it has information to persuade a reasonable person that there is a substantial possibility that the CTS will be listed. As the decision in the *NRDC* case makes clear, the Commission must critically evaluate and weigh all evidence, and this process does not allow the Commission to resolve all uncertainties in favor of either the proponents or opponents of the listing. The Commission may deal with data gaps by drawing inferences based on available information or by relying on expert opinion that the Commission finds persuasive, but in the end the petition and other information presented to the Commission must affirmatively demonstrate the species meets the criteria for protection as a candidate species.

Fish and Game Code Section 2072.3 provides there are several factors to be considered in determining whether a petition should be accepted. The informational deficiencies and factors of Section 2072.3 most relevant to this finding are again:

- (1) Population trend;
- (2) Population abundance; and
- (3) The degree and immediacy of threat.

1. Population trend:

As noted in Petition 2004, Petition 2001 indicated that historically, the CTS was found throughout large portions of the Central Valley of California

from the southern San Joaquin Valley into the southern Sacramento Valley north of the Sacramento River Delta. The species was also found in the lower foothills along the eastern side of the Central Valley and in the foothills of the Coast Range. The species' historic range followed the low elevation grassland-oak woodland plant communities of the valleys and foothills. Petition 2004 also indicated that within this very large area, it is presumed that the CTS generally occurred wherever suitable habitat was present, with some limited exceptions. No information or analysis to support this alleged correlation was provided to the Commission, however. As in Petition 2001, Petition 2004 and available public comments also provide insufficient information on population trends for the CTS. The current petition cites Shaffer, et al. (1993), Jennings and Hayes (1994), and Davidson, et al. (2002) for the proposition that the CTS population has dramatically declined. Unfortunately, these reports only surveyed a very limited portion of the CTS's total range. As in Petition 2001, Petition 2004 again erroneously relies almost exclusively on the Shaffer, et al. (1993) report for its evaluation of the range-wide status of the CTS. As noted in 2001, the Shaffer study's primary objective was to collect genetic material, not to validate the extent of the CTS range. Also, the study did not comply with the Department's protocol for species specific population studies. The study utilized sampling methods that tested for CTS larvae in a breeding pond only once during a given year. While this method of data collection was well suited for the primary objective of the Shaffer study, i.e., collecting samples of genetic material, it is a questionable technique for a valid population assessment of a species like the CTS that is often not detected in a single visit, even in high quality habitat known to be occupied. This type of sampling has been described as producing more false negatives than other methods. Because the Shaffer study's sampling procedures have a high bias toward absence which is not accounted for in its data analysis, the Petition 2004 provides a species population status report that is potentially inaccurate and misleading. The best available data for range-wide status assessment is the information provided the Commission at the hearing from survey reports and environmental documents detailing the distribution and status of the CTS, especially those based on the work of biologists who performed multiple visit surveys. This information provides credible evidence that the CTS population trend is not necessarily declining; and, therefore, is not endangered throughout all or a significant portion of its range.

While the Petition 2004 argues that California is undergoing a loss of "native" habitat for the CTS through loss of vernal pools and other similar wetlands, as noted earlier the petition fails to provide any credible information or evidence that the CTS either presently, or historically, occupies much of this hypothetical or presumptive habitat. Based on only several rough criteria involving the existence of seasonal wetlands and an associated/adjacent upland, the petition extrapolates the existence of hundreds of thousands of acres of historical CTS habitat within California. The petition then proceeds to argue that unspecified developmental projects and other activities within this presumptive area of "habitat" are adversely impacting such habitat. Again, little or no evidence was presented by petitioners actually correlating the existence of the CTS within the majority of this so-called habitat, or more specifically, within the actual "habitat" allegedly being impacted. A clear example of this correlation problem was presented by the petition in its reference to man-made stockponds as breeding habitat for the CTS. The petition points out that man-made stockponds are important habitat for survival of the CTS. The petitioners agree that the CTS adapts easily to the use of the stockponds as breeding habitat. However, the Petition 2004 again fails to analyze the degree to which habitat provided by stockponds offsets the hypothesized loss of natural breeding pools because insufficient information was presented as to actual loss of known breeding habitat, actual gains in breeding habitat from the addition of stockponds, and actual use of either habitat type by the CTS. Population trend arguments made only on land use trend information are justifiably unpersuasive without significant efforts to correlate the presence of the CTS on the lands undergoing a change in use.

2. Population abundance:

The petition provides no actual data on CTS population abundance. Instead, the petition claims that, based on the massive documented decrease in the potential habitat of the CTS, it is obvious that the average overall population must have also declined. It also states that there are difficulties involved in estimating population numbers for a species like the CTS. The petition indicates that because amphibian populations naturally undergo large fluctuations in population size as a result of environmental conditions such as rainfall and fire, it would be difficult, if not impossible, to obtain accurate population counts. While anecdotal information can be important, for example in helping identify a species' range, it cannot be used to accurately establish abundance or population trends.

Because of this deficiency estimates of historic abundance of CTS as well as trend figures are fraught with uncertainty and, in the Commission's view, are unreliable. Without an accurate assessment of the historic or current population of a species, any determination of threat to the species would be just speculation at best.

The petitioners stress that it is more important to note that, in general, the number of CTS must have been drastically reduced due to the fact that the species cannot now be found in much of its hypothetical range and appears pushed into narrow bands of habitat. However, the Petition 2004 does not provide sufficient scientific information related to the actual abundance of the CTS. There is currently no sufficient estimate of population abundance for the species as a whole, nor is there an adequate estimate of historical population abundance. Without an accurate assessment of the current population abundance of a species, it is difficult, if not impossible, to establish population trends for that species, and any determination of threat to the species is purely guesswork.

In noting these deficiencies, the Commission acknowledges that data for use in listing decisions is never complete. Historical data in particular is unavailable for many species, and a lack of historical data cannot be used by surveys or studies at the time the petition is prepared. For those reasons, gaps in information are not necessarily fatal to a petition to list a species, provided the Commission at this point in the process can discern, despite the factual uncertainties, a substantial possibility that the species is in serious danger of extinction.

With the CTS, the gaps in information are very significant. This lack of information makes it difficult for the Commission to conclude there is a substantial possibility that the CTS would ultimately be listed if it were accepted as a candidate species.

The petition downplays the significance of absence of population data by focusing instead on the threats facing the CTS of "loss of habitat". While habitat loss can often be an indicator of population declines and threat to the species, this petition's information about habitat loss was not compelling enough to overcome the other deficiencies in the data and analysis presented by the petitioners. The evidence in Petition 2004 of supposed habitat loss alone, given the other deficiencies described in these findings, is not sufficient for the Commission to

reach the conclusion that the petitioned action may be warranted. With some effort on the part of the petitioners, there are a number of surveys and methodologies available that could provide more accurate scientific information on abundance and population trends of the CTS.

The Petition 2004 identified only 486 CTS localities or sites where CTS are known to exist in the central California area (plus a few additional localities in Sonoma and Santa Barbara counties). In the U.S. Fish and Wildlife Service's final rule, it found there were 711 localities. However, the best available information provided to the Commission, shows that as of March 2004, there are 828 known CTS localities, including 753 in the California Natural Diversity Database. Both the Department of Fish and Game and the Petitioners downplay the fact that the record shows an increasing number of CTS sites (almost 40 percent increase) arguing that the increases in site identification are an artifact of increased survey effort and not increasing population. While this may be so, the increase in identified localities or sites may also reflect a larger than expected population, or an increase in the population.

Fish and Game Code Section 2072.3 clearly states that the petition must provide information about species' abundance. This petition clearly is deficient in providing sufficient scientific information on both the historic abundance, as well as current abundance of the CTS.

3. The degree and immediacy of threat:

The problems caused by the current petition's lack of population abundance and trend information are compounded within the petition's discussion of purported threats to the CTS. Without an estimate of population, no realistic assessment of the scope of the threat to the species is possible. The Petition 2004 also fails to state clearly the effects of not listing the CTS. Most listings of other species by the Commission were clearly documented by utilizing population size to show dramatic and measurable declines in population caused by the lack of protections. Some listings of species looked to small population size initially to show the need for immediate protection of the species.

The primary threat claimed in this petition is CTS habitat destruction from conversion of areas suitable for CTS habitat to urban and agricultural lands. Instead of demonstrating actual threats to the survival of the CTS, or to known CTS habitat, the petitioners list a series of projects that they say may have impacts to CTS survival. There are no

numbers, no facts and no actual demonstration of harm, much less a threat to survival of the species in the listing of the projects. The petition only offers vague generalities about the scale of the threat to the CTS, with no indication of how the species would be impacted.

This analysis is also flawed because no attempt was made to correlate any possible project sites with potential CTS habitat, much less where CTS presence has been documented. It appears that the petitioners simply assume that any project in any city or county in which the CTS has been found to exist will destroy CTS habitat and, by implication, the CTS.

Fish and Game Code Section 2072.3 explicitly requires the presentation of sufficient credible information on the questions of degree and immediacy of threat and the impact of existing management efforts. Section 2072.3 provides that "Petitions shall include information regarding . . . the degree and immediacy of threat, the impact of existing management efforts" The Petition 2004 lacks sufficient information on both of these components of the statute under current conditions. Since the Petition 2004 was submitted to the Commission, the USFWS has issued its Final Rule listing the CTS as threatened throughout its range. This Final Rule also contains a Special Rule under Section 4(d) of the ESA to allow for incidental take of the CTS resulting from routine ranching activities located on private or tribal lands. Therefore, the information in the Petition 2004 regarding the amount of existing regulatory protection and management programs in place to protect the CTS is outdated and incomplete. Significant changes have been made with respect to the existing management programs; and therefore, the immediacy of threat.

The Commission finds that the federal listing, other federally listed species with overlapping critical habitat (e.g. California red-legged frog and vernal pool crustaceans and plants), recently approved Habitat Conservation Plans for Natomas, Kern Water Bank and San Joaquin County, the Federal Clean Water Act, California's Porter-Cologne Act and California Environmental Quality Act (CTS is still a "species of concern") have the effect of reducing threats to CTS. The Commission, therefore, concludes that existing regulatory mechanisms further support the finding that there is not sufficient information to indicate that the petition may be warranted.

FINAL DETERMINATION BY COMMISSION

The Commission has weighed all the scientific and general evidence in the petition, the Department's written report, and written and oral comments received from numerous members of the public, and, based upon that weighing of the evidence, the Commission

has determined that, although there may be some reason for concern, the petition provides insufficient evidence to persuade the Commission that the petitioned action may be warranted (Fish and Game Code Section 2074.2). In making this determination the Commission finds that the petition does not provide sufficient information in the categories of population trend, abundance, and degree and immediacy of threat to find that the petitioned action may be warranted. In weighing the evidence, the Commission further finds that any threat to the CTS in California has been reduced by the existing regulatory protections. The Commission also finds that there is little evidence of "present or threatened modification or destruction of the CTS's habitat", in part for the reasons enunciated earlier herein and, also in part, because the federal listing has reduced such a threat. The petition fails to adequately, address the increase in actual locality sites, the federal listing, including the Section 4(d) rule, and other state and federal laws which provides protection; and therefore, does not provide sufficient information range-wide regarding populations trends and abundance and immediacy of threat for the Commission to adequately assess the threat and conclude that there was a substantial possibility that the species will qualify for listing.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Emergency Regulation Delaying Implementation
Date for Diesel Lubricity

This emergency action would delay the implementation of the new, more stringent lubricity standard for diesel fuel for 120 days in order to minimize the potential for disruptions to the continued supply of diesel fuel that would likely result from recent decisions by pipeline operators to limit the amount of lubricity additive permitted in diesel fuel shipped through multi-product pipelines.

Title 13
California Code of Regulations
AMEND: 2284

Filed 12/16/04
Effective 01/01/05
Agency Contact: Tom Jennings (916) 322-2884

BOARD OF EDUCATION

Instructional Materials Follow-Up Adoptions

This action specifies the procedure, materials and fee required of publishers and manufacturers of instructional materials requesting California adoption of their basic educational materials in a proceeding known as a follow-up adoption as provided for in Education Code section 60227.

Title 5
California Code of Regulations
ADOPT: 9517.1 AMEND: 9515, 9517
Filed 12/08/04
Effective 01/07/05
Agency Contact: Debra Strain (916) 319-0641

BOARD OF PRISON TERMS

Postponements, Continuances and Stipulations of Unsuitability

This certificate of compliance makes permanent the prior emergency regulatory action (OAL file no. 04-0615-03E) that amended the procedures dealing with hearing postponements, continuances, and stipulations of unsuitability.

Title 15
California Code of Regulations
AMEND: 2253
Filed 12/09/04
Effective 12/09/04
Agency Contact: Lori Manieri (916) 445-5277

BOARD OF PSYCHOLOGY

Continuing Education Exemptions

In this regulatory action, the Board of Psychology amends a regulation pertaining to "Continuing Education Exemptions and Exceptions," principally to revise the continuing education exemption for psychologists in military service.

Title 16
California Code of Regulations
AMEND: 1397.62
Filed 12/10/04
Effective 01/09/05
Agency Contact: Kathy Bradbury (916) 263-0712

BOARD OF PSYCHOLOGY

Supervised Professional Experience

This action updates the standards for supervised professional experience, two years of which are required of an applicant for licensure as a psychologist.

Title 16
California Code of Regulations
ADOPT: 1387.6, 1387.7, 1389.1, 1390.1, 1390.2,

1390.3, 1390 AMEND: 1387, 1387.1, 1387.2, 1387.3, 1387.4, 1387.5, 1391.3, 1391.4, 1391.5, 1391.8, 1391.10, 1391.11 REPEAL: 1390

Filed 12/16/04
Effective 01/01/05
Agency Contact: Kathy Bradbury (916) 263-0712

**CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD**

Implementation of the Electronic Waste Recycling Act of 2003

This emergency regulatory action establishes the program for electronic waste recovery and recycling to ensure the safe and environmentally sound disposal of covered electronic devices. This program includes, among other provisions, the procedures for the registration, payment system, and reporting requirements for collectors, recyclers, and manufacturers, to help cover their costs for participating in electronic waste recovery and recycling. Pursuant to Public Resources Code section 42475.2, subdivision (b), these regulations are deemed to have met the emergency standard, and are effective for two (2) years, or until revised by the Board.

Title 14
California Code of Regulations
ADOPT: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11, 18660.12, 18660.13, 18660.14, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31, 18660.32, 18660.33, 1
Filed 12/13/04
Effective 12/13/04
Agency Contact: Claudia Moore (916) 341-6295

**CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD**

Revisions to Solid Waste Facility Permit Application Regulations

The regulatory action deals with the filing requirements for the Solid Waste Facility Permit and incorporated by reference CIWMB Form E 1-77 (Revised 8/04) captioned "Application for Solid Waste Facility Permit/Waste Discharge Requirements". The effective date for this regulatory filing is January 1, 2005 pursuant to Government Code section 11343.4(c).

Title 27
California Code of Regulations
AMEND: 21570
Filed 12/13/04
Effective 01/01/05
Agency Contact: Elliot Block (916) 255-2821

CALIFORNIA TAX CREDIT ALLOCATION
COMMITTEE

Low Income Housing Tax Credit

This is the emergency readoption of regulations that establish procedures for the reservation and compliance monitoring of the federal and state low-income housing tax credit, and policies and procedures for use of the credit to promote the availability of low-income housing.

Title 4

California Code of Regulations

ADOPT: 10300, 10301, 10302, 10303, 10304, 10305, 10306, 10307, 10308, 10309, 10310, 10311, 10312, 10313, 10314, 10315, 10316, 10317, 10318, 10319, 10320, 10321, 10322, 10323, 10324, 10325, 10326, 10327, 10328, 10329, 10330, 10331, 10332, 10333, 10334, 1

Filed 12/16/04

Effective 12/16/04

Agency Contact: Ed Johnson (916) 654-5882

DEPARTMENT OF ALCOHOLIC BEVERAGE
CONTROL

Penalty Guidelines

This filing is the resubmittal of a certificate of compliance for an emergency regulatory action which incorporates penalty guidelines for use in disciplinary actions under the Alcoholic Beverage Control Act and Administrative Procedure Act.

Title 4

California Code of Regulations

ADOPT: 144

Filed 12/16/04

Effective 12/16/04

Agency Contact: Nick Loehr (916) 419-2526

DEPARTMENT OF CORRECTIONS

Statewide Vendor/Inmate Personal Property

This action is the Certificate of Compliance filing making permanent the prior emergency adoption of regulations establishing a statewide vendor package program used for purchasing and distributing inmate personal property packages and limiting the amount and type of personal property an inmate may possess. The prior emergency filings made permanent here are OAL file numbers 03-1211-01EON and 04-0512-02EON.

Title 15

California Code of Regulations

ADOPT: 3194, 3195 AMEND: 3006, 3044, 3092, 3100, 3101, 3107, 3138, 3161, 3190, 3191, 3192, 3193 REPEAL: 3044, 3092, 3138, 3190

Filed 12/14/04

Effective 12/14/04

Agency Contact:

Ann Cunningham (916) 322-9702

DEPARTMENT OF MOTOR VEHICLES

Commercial Vehicle Registration (CVRA) Decals

This regulatory action specifies placement of weight decals issued by the Department of Motor Vehicles for vehicles weighing 10,001 pounds or more.

Title 13

California Code of Regulations

ADOPT: 154.00

Filed 12/15/04

Effective 01/14/05

Agency Contact:

Christie Patrick (916) 657-5567

DEPARTMENT OF MOTOR VEHICLES

Fee Adjustment

This rulemaking action increases thirty four (34) statutory fees charged by the Department of Motor Vehicles effective January 1, 2005 pursuant to Vehicle Code section 1678 (SB 1055, Statutes 2003, chapter 719), which requires an annual adjustment of specified statutory fees based up the change in the California Consumer Price Index as calculated by the Department of Finance.

Title 13

California Code of Regulations

ADOPT: 423.00

Filed 12/09/04

Effective 01/01/05

Agency Contact:

Christie Patrick (916) 657-5567

DEPARTMENT OF SOCIAL SERVICES

Foster Care—ILP/TILP/THPP & THPP-Plus

This is the certificate of compliance that makes permanent the prior emergency regulatory actions (OAL file no. 03-1023-04E; 04-0420-05EE) affecting the following programs: Independent Living Program (ILP), the Transitional Independent Living Plan (TILP), the Transitional Housing Placement Program (THPP), and the Transitional Housing Program (THP)-Plus. These programs assist youths and young adults in making the transition from foster care to independent living.

Title MPP

California Code of Regulations

ADOPT: 30-501, 30-502, 30-503, 30-504, 30-505, 30-506, 30-507, 30-900, 30-901, 30-902, 30-903, 30-904, 30-905, 30-906, 30-907, 30-908, 30-909, 30-910, 30-911, 30-912, 30-913, 30-914, 30-915, 30-916, 30-917, 30-918, 30-919, 30-920, 31-236

AMEND: 11-400,

Filed 12/10/04

Effective 12/10/04

Agency Contact: Alison Garcia (916) 657-2586

DIVISION OF WORKERS COMPENSATION

Official Medical Fee Schedule

Labor Code § 5307.1 requires that for the Calendar Years 2004 and 2005 the maximum reimbursable fees set forth in the existing Official Medical Fee Schedule for physician services must be reduced by five (5) percent. While the Administrative Director has discretion to reduce the fees for individual medical procedures by amounts different than five percent, in no event can the fee for a procedure be reduced to an amount that is less than that paid by the current Medicare payment system for the same procedure. Existing section 9789.11 of title 8 of the California Code of Regulations implements Labor Code section 5307.1 and in Table A sets forth the maximum fees for physician services rendered after July 1, 2004. This emergency regulatory action adds a new Table A to section 9789.11 which includes revisions and corrections to the prior physician fee schedule for services rendered after the effective date of the regulation.

Title 8
California Code of Regulations
AMEND: 9789.11
Filed 12/15/04
Effective 01/14/05
Agency Contact:
Richard Starkeson (415) 703-4993

DIVISION OF WORKERS COMPENSATION

Spinal Surgery Second Opinions

Section 4062 of the Labor Code, as amended by Senate Bill 228, requires that, effective January 1, 2004, where an employer disagrees with the recommendation of a treating physician for spinal surgery, the employer is to obtain a second opinion from a qualified physician selected at random by the Administrative Director. This filing is a certificate of compliance for an emergency regulatory action which governs the selection of spinal surgery second opinion physicians, their reports, and their compensation.

Title 8
California Code of Regulations
ADOPT: 9788.01, 9788.1, 9788.11, 9788.2, 9788.3, 9788.31, 9788.32, 9788.4, 9788.45, 9788.5, 9788.6, 9788.7, 9788.8, 9788.9, 9788.91
Filed 12/15/04
Effective 12/15/04
Agency Contact:
Richard Starkeson (415) 703-4993

DIVISION OF WORKERS COMPENSATION

Utilization Review Standards

Labor Code section 5307.27 provides that on or before December 1, 2004, the Administrative Director, in consultation with the Commission on Health and Safety and Workers' Compensation, shall adopt, after

public hearings, a medical treatment utilization schedule. The utilization schedule shall address, at a minimum, the frequency, duration, intensity, and appropriateness of all treatment procedures and modalities commonly performed in workers' compensation cases. This emergency regulatory action clarifies the timeframes involved in the utilization review process, sets forth the procedures and notice content requirements necessary to facilitate expedited communication between treating physicians and providers, and clarifies the dispute resolution process.

Title 8
California Code of Regulations
ADOPT: 9792.6, 9792.7, 9792.8, 9792.9, 9792.10, 9792.11 REPEAL: 9792.6
Filed 12/09/04
Effective 12/13/04
Agency Contact: Minerva Krohn (415) 703-4667

FISH AND GAME COMMISSION

Spot Prawn Conversion Program

The regulatory action deals with the Spot Prawn Conversion Program. (Prior OAL File 04-1005-05S.)

Title 14
California Code of Regulations
AMEND: 180.1, 108.3
Filed 12/13/04
Effective 12/13/04
Agency Contact: Sherrie Koell (916) 653-4899

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Work Over or Near Water

In this regulatory action, the Occupational Safety and Health Standards Board amends a Construction Safety Order pertaining to "Work Over or Near Water," revising the requirements relating to employees wearing personal floatation devices.

Title 8
California Code of Regulations
AMEND: 1602(a)
Filed 12/08/04
Effective 01/07/05
Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Fall Protection at Ladderway & Stairway Entrances & Openings

This action amends fall protection requirements at ladderway and stairway openings.

Title 8
California Code of Regulations
AMEND: 3210, 3212
Filed 12/08/04
Effective 01/07/05
Agency Contact: Marley Hart (916) 274-5721

PHYSICAL THERAPY BOARD OF CALIFORNIA
Foreign Graduates Clinical Services

Pursuant to Business and Professions Code section 2653 an applicant for a license as a physical therapist who was issued a diploma by a physical therapist education program that is not an approved program and is not located in the United States must complete a period of clinical service under the direct and immediate supervision of a physical therapist licensed by the board which does not exceed nine months in a location approved by the board, in a manner satisfactory to the board. The board shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the board. The board may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations.

This rulemaking action revises existing clinical service provisions (1) to specify that the supervising physical therapist is the Center Coordinator of Clinical Education and/or the Clinical Instructor (2) to require by January 1, 2008 that a Center Coordinator, and by January 1, 2010 that all clinical instructors must be certified as a clinical instructor by the American Physical Therapy Association, (3) to require the supervising physical therapist to be onsite and available to the applicant to provide assistance with any patient care, (4) to require an evaluation of the applicant's skill level using the Physical Therapist Clinical Performance Instrument (12/1997) issued by the American Physical Therapy Association midway through, and at the end of the period of clinical service, (5) to require waiver of three months of clinical service if the applicant completes a post-secondary course in Law and Professional Ethics or four continuing education units in Ethics, and (6) to require waiver of one month of clinical service for each month of licensed clinical practice in another state.

Title 16
California Code of Regulations
ADOPT: 1398.26.5 AMEND: 1398.26
Filed 12/09/04
Effective 01/08/05
Agency Contact:
Christina Metzen (916) 561-8271

STATE ALLOCATION BOARD
Leroy F. Greene School Facilities Act of 1998—
District Funded Facilities

This filing is a certificate of compliance for an emergency regulatory action which allows school districts to file new construction funding applications for projects that have already been constructed by the

district with local funding and apply the State funding toward other high priority capital outlay school construction projects.

Title 2
California Code of Regulations
ADOPT: 1859.51.1, 1859.70.2 AMEND: 1859.2,
1859.51, 1859.70, 1859.103,
Filed 12/16/04
Effective 12/16/04
Agency Contact: Lisa Jones (916) 322-1043

STATE WATER RESOURCES CONTROL BOARD
Policy for Developing CWA section 303(d) List

This regulatory action adopts the guidelines to be used by the State Water Resources Control Board and the Regional Water Quality Control Boards in listing and delisting waters pursuant to section 303(d) of the federal Clean Waters Act (33 U.S.C. section 1313(d)).

Title 23
California Code of Regulations
ADOPT: 2916
Filed 12/13/04
Effective 01/12/05
Agency Contact:
Craig J. Wilson (916) 657-1108

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN JULY 28, 2004
TO DECEMBER 15, 2004**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1
10/13/04 ADOPT: 1015, 1019, 1048, 1050
AMEND: 1000, 1002, 1004, 1006, 1008,
1012, 1014, 1016, 1018, 1020, 1022,
1024, 1026, 1027, 1028, 1030, 1032,
1034, 1038, 1040, 1042, 1044, 1046
08/12/04 ADOPT: 1396 AMEND: 1314, 1321,
1323, 1324, 1334, 1354, 1390, 1392,
REPEAL: 1332

Title 2
12/06/04 AMEND: 1859.2, 1859.51
11/30/04 AMEND: Div. 8, Ch. 29, Sec. 50000
11/24/04 AMEND: 1866, 1866.1, 1866.2, 1866.4,
1866.4.1, 1866.4.2, 1866.4.3, 1866.5,
1866.5.1, 1866.7, 1866.13

11/22/04 AMEND: 58700
 11/18/04 AMEND: 561, 561.1, 561.2, 561.4, 561.5, 561.6, 561.7, 561.8, 561.9, 561.10, 561.11, 561.12, 561.13, 561.14
 11/10/04 ADOPT: 1859.163.1, 1859.163.2, 1859.163.3, 1859.164.2, 1859.167.1 AMEND: 1859.2, 1859.145, 1859.145.1, 189.160, 1859.161, 1859.162, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.167, 1859.168, 1859.171
 11/09/04 AMEND: 18530.8
 11/04/04 AMEND: 1859.71.2, 1859.78.4
 11/02/04 AMEND: 1859.51, 1859.105
 11/02/04 ADOPT: 1859.123.1 AMEND: 1859.2, 1859.73.1, 1859.81, 1859.83, 1859.90, 1859.120, 1859.121, 1859.122, 1859.122.1, 1859.122.2, 1859.123, 1859.124, 1859.124.1, 1859.125, 1859.125.1, 1859.126, 1859.127, 1859.129, 1859.130
 10/26/04 ADOPT: 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, AMEND: 18361.5, 18406, 18450.4, 18702.2, 18702.5, 18740, 18747, 18754, 18951 REPEAL: 18361
 09/29/04 ADOPT: 20107
 09/23/04 AMEND: 18401, 18421.1
 09/23/04 ADOPT: 588, 588.1, 588.2, 588.3, 588.4, 588.5, 588.6, 588.7, 588.8, 588.9, 588.10
 09/15/04 ADOPT: 599.511 AMEND: 599.500(t)
 09/10/04 AMEND: 54300
 09/09/04 AMEND: 18704.2
 08/31/04 ADOPT: 599.517
 08/20/04 ADOPT: 586, 586.1, 586.2
 08/10/04 ADOPT: 1896, 1896.2, 1896.4, 1896.6, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, 1896.20, 1896.22 REPEAL: 1896, 1896.2, 1896.4, 1896.6, 1896.8, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, 1896.20
 08/09/04 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2
 08/09/04 AMEND: 599.508
 08/04/04 AMEND: 599.515(e)
 07/30/04 ADOPT: 18531.10
 07/28/04 ADOPT: 1172.90, 1172.92

Title 3

11/29/04 AMEND: 3423(b)
 11/17/04 AMEND: 1703.3
 11/16/04 AMEND: Subchapter 1.1
 11/10/04 AMEND: 3601(g)
 11/03/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000, REPEAL: 6450, 6450.1, 6450.2, 6250.3, 6784
 10/25/04 AMEND: 3700(c)

10/14/04 AMEND: 3423(b)
 10/13/04 AMEND: 3700(b)
 10/06/04 AMEND: 3877(a), 3883, 3885(a)(b), 4603(f) REPEAL: 3902
 10/06/04 ADOPT: 2042, 2100, 2101, 2102
 10/04/04 AMEND: 1280.2
 09/22/04 AMEND: 3430(b)
 09/20/04 AMEND: 3700
 09/09/04 AMEND: 6502
 09/08/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784
 09/08/04 AMEND: 3423(b)
 09/02/04 AMEND: 3700(b)(c)
 08/19/04 AMEND: 3700(c)
 08/10/04 ADOPT: 1472.8 AMEND: 1472.5
 08/05/04 AMEND: 3962(a)

Title 4

11/29/04 AMEND: 1846.5
 11/23/04 ADOPT: 2444 AMEND: 2241, 2242, 2243, 2245, 2250, 2270, 2271, 2272, 2300, 2401, 2422, 2423, 2424, 2425, 2426, 2441, 2442, 2443, 2505, 2507, 2511, 2512
 11/08/04 ADOPT: 12360, 12370
 10/18/04 ADOPT: 12270, 12271, 12272
 10/14/04 AMEND: 1402, 1471, 2056, 2101, 2102, 2103
 10/13/04 AMEND: 1371
 09/23/04 ADOPT: 144
 09/20/04 AMEND: 12101, 12122, 12250
 08/17/04 ADOPT: 12400, 12401, 12402, 12403, 12404, 12405, 12406

Title 5

12/08/04 ADOPT: 9517.1 AMEND: 9515, 9517
 11/16/04 ADOPT: 80089.3, 80089.4
 11/15/04 ADOPT: 6116, 6126 AMEND: 6100, 6115, 6125
 11/09/04 ADOPT: 14105
 11/04/04 AMEND: 11981, 11985
 11/02/04 AMEND: 58311, 58316
 09/30/04 ADOPT: 19814.1, 19832, 19833, 19834, 19835, 19837, 19837 AMEND: 19814
 09/22/04 AMEND: 11530
 09/14/04 AMEND: 58310, 58312, 58314
 09/08/04 ADOPT: 58139
 09/03/04 AMEND: 40000, 40050, 40650, 40900, 41302, 41304, 41901.5, 42501, 43000
 09/02/04 ADOPT: 40402.1, 40405, 40405.1, 40405.2, 40405.3, 40405.4, 40901, 41301, 41906, 41910, and 42728. AMEND: 40500, 40501, 40503, 40505, 40506, 41600, 41601, 42395, 42705, 43600, 43601, 43602, 43603, 43604, 43660, 43661, 43662, 43663, 43664, 43665, 43666

08/09/04 AMEND: 590, 591, 592, 593, 594, 595,
596
07/30/04 ADOPT: 58317

Title 7

12/06/04 AMEND: 213, 218

Title 8

12/15/04 AMEND: 9789.11
12/15/04 ADOPT: 9788.01, 9788.1, 9788.11,
9788.2, 9788.3, 9788.31, 9788.32,
9788.4, 9788.45, 9788.5, 9788.6, 9788.7,
9788.8, 9788.9, 9788.91
12/09/04 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,
9792.10, 9792.11 REPEAL: 9792.6
12/08/04 AMEND: 3210, 3212
12/08/04 AMEND: 1602(a)
12/07/04 AMEND: 3314
11/09/04 AMEND: 6777
11/03/04 AMEND: 15220, 15220.1, 15220.3,
15220.4
11/03/04 AMEND: 1541(l)(1)
11/01/04 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,
9767.5, 9767.6, 9767.7, 9767.8, 9767.9,
9767.10, 9767.11, 9767.12, 9767.13,
9767.14
10/19/04 ADOPT: 16421, 16422, 16423, 16424
AMEND: 16425, 16426, 16427, 16428,
16429, 16431, 16432, 16433, 16434,
16435, 16436, 16437, 16438, 16439
REPEAL: 16430, 16435.5
10/07/04 AMEND: 3456
10/07/04 AMEND: 5144
10/06/04 AMEND: 344.30
10/04/04 ADOPT: 10202, 10102.1, 10203.1,
10203.2 AMEND: 10200, 10201, 10203,
10204
10/04/04 AMEND: 5155
10/01/04 AMEND: 5155
10/01/04 ADOPT: 3241.1
09/30/04 AMEND: 3381
08/30/04 ADOPT: 32032, 32033, 32034, 32035,
81000, 81005, 81010, 81020, 81030,
81040, 81050, 81055, 81060, 81065,
81070, 81075, 81080, 81090, 81100,
81105, 81110, 81115, 81120, 81125,
81130, 81135, 81140, 81145, 81150,
81155, 81160, 81165, 81170, 81175,
81180,
08/27/04 AMEND: 3657
08/26/04 AMEND: 3427
08/02/04 AMEND: 6283(a)
07/29/04 ADOPT: 232.01, 232.02, 232.03, 232.04,
232.05, 232.06, 232.07, 232.08, 232.09,
232.10, 232.11, 232.12, 232.20, 232.21,
232.22, 232.23, 232.24, 232.25, 232.26,

232.27, 232.28, 232.29, 232.30, 232.31,
232.32, 232.33, 232.34, 232.35, 232.36,
232.37, 232.40,

Title 9

12/06/04 ADOPT: 9805, 9868 AMEND: 9801,
9801.5, 9804, 9812, 9820, 9824, 9848,
9867, 9878
10/28/04 AMEND: 9525
09/01/04 ADOPT: 9807, 9822, 9834, 9836
AMEND: 9800, 9802, 9878 REPEAL:
9830, 9834, 9836

Title 10

11/19/04 ADOPT: 2361
10/27/04 AMEND: 260.102.14
10/26/04 AMEND: 2498.4.9, 2498.5
10/04/04 AMEND: 2632.13(e)
09/22/04 AMEND: 2731
09/16/04 AMEND: 2318.6, 2353.1
09/15/04 AMEND: 2695.8(b)
09/01/04 AMEND: 2698.30, 2698.31, 2698.32,
2698.33, 2698.34, 2698.35, 2698.36,
2697.37, 2698.38, 2698.39, 2698.40,
2698.41, 2698.42
08/31/04 ADOPT: 2698.95
08/26/04 AMEND: 2498.5
08/26/04 AMEND: 2498.5
08/26/04 AMEND: 2498.3
08/25/04 ADOPT: 2498.4.9 REPEAL: 2400, 2401,
2403, 2404, 2405, 2406, 2407, 2408,
2420, 2421, 2421.1a, 2421.2, 2421.3,
2421.4, 2421.5, 2421.6, 2421.8, 2421.9,
2421.10, 2422, 2430, 2431, 2431.1,
2431.2, 2431.3, 2432, 2441, 2442, 2443,
2443.1, 2444, 2444.5, 2444.6
08/24/04 AMEND: 2498.6
08/04/04 ADOPT: 2695.1, 2695.2, 2695.4, 2695.7,
2695.8, 2695.85, 2695.9, 2695.10,
2695.12 REPEAL: 2695.1, 2695.2,
2695.4, 2695.7, 2695.8, 2695.85, 2695.9,
2695.10, 2695.12, 2695.14
07/29/04 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4,
2192.5, 2192.6, 2192.7, 2192.8, 2192.9,
2192.10, 2192.11, 2192.12
07/29/04 AMEND: 2498.6

Title 11

12/07/04 AMEND: 51.16
11/01/04 ADOPT: 4001, 4002, 4003, 4004, 4005,
4006 AMEND: 984.1
10/19/04 ADOPT: 2037, 2038 AMEND: 2010,
2037, 2050
08/26/04 AMEND: 1005, 1007, 1008, 1018

Title 12

10/08/04 AMEND: 503(f)

Title 13

12/15/04 ADOPT: 154.00
 12/09/04 ADOPT: 423.00
 12/02/04 ADOPT: 120.01 AMEND: 120.00,
 120.02, 120.04
 12/02/04 AMEND: 2701, 2702, 2703, 2704, 2705,
 2706, 2707, 2709
 11/10/04 ADOPT: 2477
 10/28/04 ADOPT: 1230.5
 10/25/04 AMEND: 190.32, 190.34, 190.36, 190.38
 09/09/04 ADOPT: 15.07
 09/02/04 ADOPT: 155.05 AMEND: 155.00,
 155.02, 155.04, 155.08, 155.10 REPEAL:
 155.06

Title 14

12/13/04 ADOPT: 18660.5, 18660.6, 18660.7,
 18660.8, 18660.9, 18660.10, 18660.11,
 18660.12, 18660.13, 18660.14, 18660.15,
 18660.16, 18660.17, 18660.18, 18660.19,
 18660.20, 18660.21, 18660.22, 18660.23,
 18660.24, 18660.25, 18660.30, 18660.31,
 18660.32, 18660.33, 1
 12/13/04 AMEND: 180.1, 108.3
 12/07/04 AMEND: 195
 11/22/04 AMEND: 670.5
 11/10/04 AMEND: 630
 11/08/04 ADOPT: 5.26 AMEND: 4.15, 5.25
 11/08/04 ADOPT: 3696.5
 11/04/04 AMEND: 550, 551, 552
 11/04/04 AMEND: 502
 11/03/04 AMEND: 163, 164
 11/02/04 AMEND: 2525
 10/28/04 AMEND: 912.9, 932.9, 952.9
 10/21/04 AMEND: 300, 600
 10/18/04 AMEND: 1682, 1682.1, 1683, 1683.1,
 1683.6 REPEAL: 1681.2, 1681.3, 1681.2,
 1681.3
 10/14/04 AMEND: 10610(e) Appendix M and
 Appendix N
 10/12/04 ADOPT: 1052.4 AMEND: 895.1, 1052,
 1052.1
 10/07/04 AMEND: 851.1
 09/27/04 AMEND: 851.23
 09/22/04 AMEND: 1.74
 09/21/04 AMEND: 507.1
 09/09/04 AMEND: 27.60, 27.65, 27.82, 28.27
 09/07/04 ADOPT: 15333, Appendix L AMEND:
 15023, 15062, 15064, 15065, 15075,
 15082, 15085, 15087, 15088, 15088.5,
 15094, 15097, 15126.4, 15205, 15206,
 15252, 15313, 15325, 15330, 15333,
 15378, Appendices C, D

09/07/04 ADOPT: 17913.5 AMEND: 17901,
 17902, 17905, 17910, 17911, 17913,
 17914, 17914.5

09/01/04 AMEND: 671

08/23/04 ADOPT: 18456.2.1, 18460.2.1 AMEND:
 18449, 18450, 18451, 18456, 18459,
 18459.2.1, 18459.3, 18461, 18462

08/23/04 AMEND: 7.50

08/12/04 AMEND: 7.50(b)(180)

08/10/04 AMEND: 18072

07/30/04 AMEND: 3698, 3699

Title 15

12/14/04 ADOPT: 3194, 3195 AMEND: 3006,
 3044, 3092, 3100, 3101, 3107, 3138,
 3161, 3190, 3191, 3192, 3193 REPEAL:
 3044, 3092, 3138, 3190
 12/09/04 AMEND: 2253
 11/05/04 ADOPT: 1059
 10/13/04 REPEAL: 4200, 4201, 4202, 4370, 4371,
 4374, 4376, 7381, 7382, 7393, 4394,
 4394, 4394.8, 4395, 4396, 4397, 4399,
 4400
 09/13/04 AMEND: 200, 2400, 2403
 08/30/04 ADOPT: 2251.5 AMEND: 2005, 2057,
 2072, 2073, 2074 REPEAL: 2050, 2051,
 2052, 2054, 2055, 2056

Title 16

12/10/04 AMEND: 1397.62
 12/09/04 ADOPT: 1398.26.5 AMEND: 1398.26
 12/06/04 ADOPT: 643
 11/22/04 ADOPT: 4144
 11/08/04 ADOPT: 4200, 4202, 4204, 4206, 4208,
 4210, 4212, 4216, 4218, 4220, 4222,
 4224, 4226, 4230, 4232, 4234, 4236,
 4240, 4242, 4244, 4246, 4248, 4250,
 4252, 4254, 4256, 4258, 4260, 4262,
 4264, 4266, 4268
 11/02/04 ADOPT: 1746
 10/26/04 ADOPT: 4180, 4181, 4182, 4183, 4184
 10/25/04 AMEND: 1379.26
 10/22/04 ADOPT: 1382.6 AMEND: 1382.5
 10/08/04 ADOPT: 1399.16
 10/08/04 AMEND: 1079.2
 10/05/04 ADOPT: 1399.434, 1399.435 AMEND:
 1399.415, 1399.416, 1399.436
 10/04/04 ADOPT: 1355.31
 09/29/04 ADOPT: 1751.01, 1751.02 AMEND:
 1751, 1751.2, 1751.3, 1751.4, 1751.5,
 1751.6, 1751.7, 1751.9 REPEAL: 1751.8
 09/24/04 AMEND: 88
 09/24/04 AMEND: 1397.61
 09/23/04 AMEND: 1381
 09/22/04 AMEND: 1710, 1711, 1717.1, 1717.4,
 1720, 1721, 1723.1, 1724, 1749, 1793,
 1793.1, 1793.2, 1793.4, 1793.5, 1793.6,
 1793.7

09/08/04 AMEND: 1399.26
 09/07/04 ADOPT: 1082.3
 09/03/04 AMEND: 1793.3
 09/02/04 AMEND: 1709.1
 08/23/04 AMEND: 901.(d), 902.(c), 903.(b),
 905.(a), 913.(f), 914.(d), 919.(g), and
 941.(a)(2).
 08/11/04 AMEND: 1381.5

Title 17

11/29/04 ADOPT: 54351, 58800, 58810, 58811,
 58812 AMEND: 54302, 54310, 54320,
 54370
 11/08/04 ADOPT: 93115
 10/28/04 AMEND: 50604, 50608, 54326, 54370,
 56003, 56082, 57540, 58510, 58671
 08/27/04 AMEND: 50604, 50605, 54302, 54310,
 54320, 54326, 54332, 54355, 58533
 08/12/04 AMEND: 94011

Title 18

11/23/04 ADOPT: 19133
 11/18/04 AMEND: 462.500
 11/16/04 AMEND: 18001-1
 11/12/04 AMEND: 1532
 11/04/04 AMEND: 1610.2
 11/02/04 AMEND: 1574
 10/18/04 ADOPT: 136
 09/10/04 AMEND: 1603
 08/25/04 AMEND: 305
 08/25/04 AMEND: 302
 08/23/04 AMEND: 131
 08/19/04 AMEND: 1525.7
 08/19/04 AMEND: 1533.1
 08/18/04 AMEND: 1535
 08/18/04 AMEND: 1534
 08/17/04 AMEND: 1533.2

Title 19

10/28/04 AMEND: 1.09, 3.24, 904.4, 1918.35,
 1918.37 REPEAL: 1918.17
 10/28/04 AMEND: 3.19

Title 20

09/15/04 AMEND: Title 20 Division 1, Section
 77.7
 07/29/04 AMEND: 1604, 1605.1, 1605.2, 1605.3,
 1606

Title 21

08/05/04 AMEND: 1502, 1503.1.2, 1505 RE-
 PEAL: 1504, 1504.5

Title 22

12/02/04 ADOPT: 3254-4 AMEND: 2712-1,
 2712-2, 3253-1, 3254-2
 11/12/04 AMEND: 70217
 11/09/04 ADOPT: 3261-1, 3262-2 AMEND:
 3254-3, 3258-1, 3258-2, 3260-1, 3262-1
 10/25/04 AMEND: 2051-3
 09/29/04 AMEND: 51003

09/29/04 AMEND: 51516.1
 09/29/04 ADOPT: 51000.10.1, 51000.15.1,
 51000.20.9, 51000.31, 51000.51,
 51000.52, 51000.53, 51000.60 AMEND:
 51000.1, 51000.1.1, 51000.3, 51000.4,
 51000.6, 51000.7, 51000.16, 51000.30,
 51000.35, 51000.40, 51000.45, 51000.50,
 51000.55, 51051, 51451
 09/20/04 ADOPT: 2405.1, 2405.2, 2405.3, 2750,
 2751, 2752, 2753, 2754, 2754.1, 2754.2,
 2755, 2756, 2757, 2758, 2759, 2760,
 2761, 2762, 2763, 2764, 2765, 2766,
 2767, 2767.1, 2768, 2769, 2770, 2771,
 2772, 2773 AMEND: 2400, 2401, 2403,
 2404, 2405, 2407, 2408, 2409
 09/13/04 ADOPT: 115500, 115503, 115510,
 115520, 115525, 115530, 115535,
 115540, 115545, 115550 REPEAL: 12-
 223.2, 12-223.3, 12-223.4, 12-223.5, 12-
 223.6, 12-223.7, 12-223.8, 12-223.9, 12-
 223.10, 12-223.11, 12-223.12, 12-223.13,
 12-223.14, 12-223.15, 12-223.16,
 09/10/04 ADOPT: 100390, 100390.1, 100390.2,
 100390.3, 100390.4, 100390.5, 100390.6,
 100390.7, 100391, 100391.1, 100392,
 100393, 100393.1, 100394, 100395
 AMEND: 100136, 100140, 100141,
 100142, 100143, 100144, 100145,
 100146, 100147, 100148, 100149,
 100150, 100151,
 09/10/04 ADOPT: 100061.1 AMEND: 100059,
 100059.1, 100060, 100062, 100063,
 100064, 100065, 100066, 100069,
 100070, 100074, 100075, 100077,
 100078, 100079, 100080, 100081
 09/10/04 ADOPT: 100400, 100401, 100402,
 100403, 100404, 100405
 09/03/04 ADOPT: 51191, 51192, 51255, 51356,
 515104.1 AMEND: 51051
 08/17/04 AMEND: 4402.2
 08/16/04 ADOPT: 83702(a), 83072(b), 83072(c),
 83072(c)(1)(A)1, 83072(c)(6)(A)1,
 83072(c)(6)(A)2, 83072(c)(6)(A)3,
 83072(c)(8)-(27)(H) et seq., 83072(d),
 84072(a), 84072(b), 84072(c),
 84072(c)(5)(B), 84072(c)(11)(A)1,
 84072(c)(11)(A)2, 84072(c)(11)(A)3,
 84072(c)1
 08/12/04 AMEND: 51315
 08/09/04 AMEND: 926-3, 926-4, 926-5
 08/05/04 AMEND: 90417

Title 22, MPP

11/04/04 ADOPT: 86000, 86001, 86005, 86009,
 86010, 86018, 86020, 86022, 86023,
 86024, 86028, 86030.5, 86031.5, 86036,
 86044, 86044.5, 86045, 86061, 86064,

86065, 86065.2, 86065.3, 86065.4,
86065.5, 86066, 86068.1, 86068.2,
86068.3, 86068.4, 86070, 86072, 86073,
08/20/04 ADOPT: 102416.1 AMEND: 80001,
80019, 80019.1, 80019.2, 80054, 80061,
80065, 80066, 87101, 87219, 87219.1,
87454, 87565, 87566, 87801, 87819,
87819.1, 87854, 87861, 87865, 87866,
101152, 101170, 101170.1, 101170.2,
101195, 101212, 101216, 101217,
102352,

Title 23

12/13/04 ADOPT: 2916
12/03/04 ADOPT: 3420, 3421, 3422, 3423, 3424,
3425, 3426, 3427, 3428
11/29/04 AMEND: 2611
11/15/04 ADOPT: 3939.10
10/14/04 AMEND: 676, 791, 1062, 1064, 1066,
1074, 1077, 3833.1
10/04/04 ADOPT: 3914
09/27/04 ADOPT: 3939.11
09/27/04 ADOPT: 3905
09/14/04 ADOPT: 3939.9
08/31/04 AMEND: 2200
08/26/04 ADOPT: 2915
07/29/04 AMEND: 2611

Title 23, 27

11/16/04 ADOPT: 3890, 3891, 3892, 3893, 3894,
3895 AMEND: 15110, 15185, 15290,
15400, 15400.3

Title 25

11/01/04 AMEND: 7002, 7005, 7006, 7008, 7012,
7532, 7540, 7544, 7562
09/30/04 ADOPT: 8430, 8431, 8432, 8433, 8434,
8735

09/09/04 ADOPT: 8206.1 AMEND: 8201, 8204,
8204.1, 8205, 8206, 8207, 8208, 8210,
8211, 8212, 8212.1, 8213, 8214, 8215,
8216, 8217 REPEAL: 8217.1, 8219

Title 27

12/13/04 AMEND: 21570
11/16/04 AMEND: 10017(b)
10/18/04 ADOPT: 21785

Title 28

11/22/04 ADOPT: 22900, 22910, 22920, 22930,
22940, 22950
11/08/04 ADOPT: 1300.86
10/26/04 AMEND: 1300.51
09/09/04 AMEND: 1005

Title MPP

12/10/04 ADOPT: 30-501, 30-502, 30-503, 30-
504, 30-505, 30-506, 30-507, 30-900,
30-901, 30-902, 30-903, 30-904, 30-905,
30-906, 30-907, 30-908, 30-909, 30-910,
30-911, 30-912, 30-913, 30-914, 30-915,
30-916, 30-917, 30-918, 30-919, 30-920,
31-236 AMEND: 11-400,
08/18/04 ADOPT: 20-406.33, 20-406.34 AMEND:
20-400.1, 20-401, 20-402.1, 20-402.2,
20-403.24, 20-404.15, 20-404.2, 20-
404.3, 20-404.33, 20-404.34, 20-404.35,
20-404.36, 20-405.1, 20-406.1, 20-
406.11, 20-406.3, 20-403.32, 20-406.33,
20-406.5 REPEAL: 20-404.32, 2
08/17/04 AMEND: 63-300, 63-504
08/16/04 ADOPT: 42-722 AMEND: 42-701
08/09/04 ADOPT: 42-717.11, 42-717.111, 42-
717.112, 42-717.12, 42-717.13, 42-717.3,
42-717.11.4, 42-717.41, 42-717.42, 42-
717.5, 42-717.6 AMEND: 42-717.1, 42-
717.2, 42-717.21

